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CASE PA/4-32604A

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1645

AZRIA ET AL.

Examiner: Khanna, Hemant

APPLICATION NO: 10/523,421

FILED: FEBRUARY 1, 2005

FOR: ORAL ADMINISTRATION OF CALCITONIN

MS: Amendment

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is being filed in response to the Office Action mailed May 5, 2006, which indicated that claims 1 to 3, 7 to 10, 12, and 13 are subject to restriction under 35 U.S.C. § 121. The Office Action set a shortened statutory period for reply of one month from the mailing date of the communication. A five month extension of time petition is included herewith.

Claims 1 to 3, 7 to 10, 12, and 13 are pending in this Application.

An election under 35 U.S.C. § 121 has been required to the subject matter of:

Group (I) Claims 1 – 3, drawn to methods of treating a human host with a pharmaceutical composition, and

Group (II) Claims 7 – 10, 12 and 13, drawn to a pharmaceutical composition and kit comprising thereof.

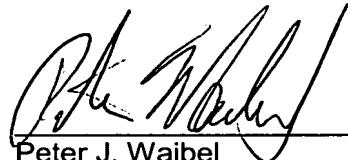
In response to the Restriction Requirement Applicants provisionally elect, *with traverse*, the invention of Group (I), namely, claims 7 – 10, 12 and 13, drawn to a pharmaceutical composition and kit comprising said composition. Applicants expressly reserve the right to file divisional applications directed to the non-elected subject matter. It is respectfully requested that the restriction requirement be favorably reconsidered and withdrawn.

The Office Action states that this application contains two groups of inventions which are allegedly do not reflect a common inventive concept because they do not share a common utility that is based upon a common feature or combination of features. Applicants respectfully submit that the inventions presented in Groups I and II, while distinct, should not be subject to restriction as they share a common technical feature, a position affirmed by the European Patent Office in the international phase of this application (no negative finding with respect to a lack of unity of invention).

It is respectfully requested that the Examiner consider rejoinder of the non-elected claims with the determination of allowable subject matter with respect to the elected group of claims.

The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this response or application.

Respectfully submitted,



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Date: November 3, 2006